

4-9-15 Call with David Delwiche (DOE), Jim Robillard (DOE), Tim Ketcham (DOE), and Charlie Zafonte – Meeting Notes

Jim Robillard – Lead for investigation

They received complaint from employee directly:

Mgmt. pressured employee to certify containment.

Employee wasn't allowed to talk to Charlie Zafonte.

Sample taken in May 2014 that contained weather diesel, wasn't included in tank closure activities.

Regulatory due date for SPCC revision was exceeded.

Reviewed over 1000 docs, interviewed 30 people. When they started investigation, DOE froze records. Emails from DOE are deleted after 90 days unless otherwise requested. (different from EPA policy), so they can't guarantee they got everything they were looking for. However, DOE

Pressure to certify containment – couldn't find evidence.

Mgmt. not allowing Gelting to talk to Zafonte

Found emails saying that if Gelting wanted meet with Zafonte, he could. But couldn't find emails that closed the loop on communications to Gelting letting him know that it was ok. To summarize: could find no evidence that they actively prevented him from meeting with Zafonte. But also couldn't find evidence that manager actively told him it was ok.

First-line supervisor (who allegedly prevented Gelting from speaking to Zafonte) was interviewed – claimed that he told Gelting “He [Zafonte] is in Building 92”, but acknowledged that his answer may not have been clear to Gelting.

Sample taken in May 2014 that contained weather diesel, wasn't included in tank closure activities

Samples to determine whether it was coming from surface water or groundwater. On-site chemistry lab was used. They smelled petroleum in one of the samples. Sent sample to off-site lab (Adirondack).

Sample came back with trace amounts of weathered diesel. They did handwritten analysis of sample and concluded that it was likely from historic spill. Wrote handwritten note, and put it in the file. DOE believes this analysis wasn't robust enough, and knowledge of “positive sample” wasn't communicated well to DOE or workgroup. Weekly analysis was taking place, just visual analysis, but didn't pick up any positives, so they never sent any samples to lab for further analysis.

Q: Have they changed their sampling procedures to prevent this sort of discrepancy in the future?

A: No, but tanks were drained – still there, but working on contract later this month to remove tanks.

SPCC revision due date

Found normal email traffic discussing revision. Found conflicting statements - inconclusive. The trigger – the reason it was due in March 2014 – was that a storage area was moved. However, the storage area was moved back – it was portable – to home location. Couldn't have been moved more than a month, according to records, because each monthly record showed that it was in home location. DOE says that there was a desire to change its permanent location, and that's why the revision took place in May 2014.

Q from Charlie: Draft SPCC was on table, with substantive changes proposed, and with existing SPCC plan saying that second containment was there, when it wasn't. – why wasn't Zafonte notified?

Two answers:

- 1) DOE was unaware that there was a draft SPCC in process. They didn't bring it up because they didn't know anything about it.
- 2) Contractor thought it was premature to raise the issue.

CONCLUSION

Relationship between Gelting and manager was poor (one co-worker described it as "toxic"). Corroborated by multiple sources, including Gelting himself. This strained communicating and decision-making.

BPMC conducted an internal investigation, concurrent with DOE's. Different scope: main additions are "HR issues" but when I asked if other environmental issues were part of their scope, DOE just said the scope "was different", wouldn't elaborate.

BPMC would like to write a letter and/or meet to discuss their response/corrective actions. Jim says they want to "make it right" with EPA.

Next Steps:

DOE has written a letter to BPMC general manager to ask for his action. Provided him w/ results of his investigation, and asked him to provide DOE with his corrective actions from their internal investigation.

Charlie: We just need DOE's report, BPMC's report, and letter from BPMC describing corrective actions.

DOE: needs to make sure documents are ready to be shared, redacted if necessary, etc.

EPA: When can we expect to see reports?

DOE: ...might take a while – have to meet with lawyers, make sure sensitive HR stuff isn't included, etc.

DOE has initiated another review, with different team members, to examine if field office could have done things differently, can oversight be improved, etc.

Q for us: DOE has not shared the complaint that Gelting provided to EPA – can they give it to them?

Us: Sure. Can BPMC provide THEIR complaint to us? DOE: maybe – it would be heavily redacted. Us: OK.

DOE won't send our complaint to them until they agree to send us something back – even if it's heavily redacted.

David Delwiche – NYS Region 5 made reference to "3 open spills" – third one, after further investigation, was a report made by Gelting in November 2013 timeframe. Report was related to two tanks with telltale mechanism. NYS Reg. 5 indicated that there were 4 pages of detail related to spill report. NYS was unwilling to provide much detail on the report.